

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 2-25-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The therapeutic procedures, neuromuscular re-education, kinetic activities, office visits, and joint mobilization from 5/4/03 through 6/06/03 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed service.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 5/4/03 through 6/06/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 28th day of June 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division
RLC/rlc

NOTICE OF INDEPENDENT REVIEW DECISION

Date: May 27, 2004

MDR Tracking #: M5-04-2313-01
IRO Certificate #: 5242

AMENDED DECISION

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ___ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

The provided documentation revealed that the claimant suffered a slip and fall injury on ___ while walking on some ice. (It should be noted that some of the billing and prior medical documentation that predated the above mentioned date of injury was from another claimant with the same name. The pre-date of injury documentation that was provided showed *the social security number was different and the date of birth was also different*. The diagnoses also had to do with the knee and forearm of the claimant whereas this claimant had a neck and shoulder injury. This documentation was, therefore, excluded from consideration.) At any rate, the claimant did undergo a cervical MRI evaluation which reportedly only showed a 2-3mm disc protrusion at the C4/5 level which was not documented to be causing any foraminal stenosis. The claimant did see a clinical psychologist on 5/7/03 for what appeared to be a mental status or behavioral exam. The claimant reported that his pain levels at this time were a 10/10 and involved the head, neck and shoulders. The claimant was reporting some personality changes and a lot of difficulties with activities of daily living. In fact, his sister had to drive him to the 5/7/03 appointment. Neither he nor his sister could not come up with any specific examples of personality changes; however, it was felt the claimant had changed somewhat since the incident. The documentation is conflicting with respect to whether or not the claimant actually lost consciousness when he slipped and fell landing on his head. The claimant also underwent an FCE on 4/24/03 and was only able to function at the sedentary level due to obvious neck pain and headaches. The claimant was unable to complete much of the lift tasks during the FCE due to pain. I noticed that the claimant's blood pressure, even before testing, was very high. The claimant also appeared to not initiate any type of care following his accident until 3/19/03. This was according to the behavioral examination report.

Requested Service(s)

The medical necessity of the outpatient services including therapeutic procedures, neuromuscular re-education, kinetic activities, established office visit, joint mobilization/osteopathic manipulation provided from 5/4/03 through 6/6/03.

Decision

I disagree with the insurance carrier and find that all services in dispute would be considered medically necessary.

Rationale/Basis for Decision

The psychological or behavioral interview of 5/7/03 revealed the claimant did not seek medical attention until 3/19/03. At the time of the 5/7/03 behavioral consultation the claimant was still obviously in a significant amount of pain. There was really no evidence of symptom magnification at this time or on the FCE of 4/24/03. Given the clinical information and documentation the claimant was obviously unable to return to work and an active functional restoration program would have been warranted at that time. I saw no specific evidence of significant improvement through the first part of June 2003 and further referral may be indicated; however, this would still make the services in dispute medically necessary given the claimant's clinical status at the time. The documentation suggests that prior to 5/7/03 the claimant had only been involved in "some therapy" and had been undergoing some injections, which were nonspecific. The documentation suggested that further rehabilitation was warranted during the disputed dates of service and the disputed dates of service appear to be involving active care only and this was warranted given the claimant's current clinical status as documented at the time.